

REMARKS

Applicants note that the Examiner has withdrawn the allowability of all claims, and has issued rejections based upon misinterpretation of the art of record.

By the above amendment, claims 1 and 11 have been amended to recite the feature that the film has "selective absorption" which feature has previously been recited in dependent claim 2, for example, while more clearly setting forth that "all" absolute values of differential values in the visible light range of 380 nm - 780 nm are equal to or less than 2, to avoid any misinterpretation of the previously claimed features. Additionally, claim 2 has been amended to recite "absorption peaks" at the indicated wavelengths. Furthermore, informalities in the claims have been corrected with claim 15 being amended to again clarify the feature of "all" of the absolute values and new dependent claims 19-24 have been added, reciting further features of the present invention.

As to the rejection of claims 1, 11, 13 and 18 under 35 U.S.C. 102(a) as being anticipated by Oyama et al (5,942,319) and the rejection of claims 2, 4-6, 8-10, 12 and 15-17 under 35 U.S.C. 103(a) as being unpatentable over Oyama et al (5,942,319) in view of Itou et al (5,939,821), such rejections are traversed insofar as such rejections are applicable to the present claims.

As to the requirements to support a rejection under 35 U.S.C. 102, reference is made to the decision of In re Robertson, 49 USPQ 2d 1949 (Fed. Cir. 1999), wherein the court pointed out that anticipation under 35 U.S.C. §102 requires that each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. As noted by the court, if the prior art reference does not expressly set forth a particular element of the claim, that reference still may anticipate if the element is "inherent" in its disclosure. To establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and

that it would be so recognized by persons of ordinary skill." Moreover, the court pointed out that inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.

With regard to the requirements to support a rejection under 35 U.S.C. 103, reference is made to the decision of In re Fine, 5 USPQ 2d 1596 (Fed. Cir. 1988), wherein the court pointed out that the PTO has the burden under §103 to establish a prima facie case of obviousness and can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. As noted by the court, whether a particular combination might be "obvious to try" is not a legitimate test of patentability and obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. As further noted by the court, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

Furthermore, such requirements have been clarified in the recent decision of In re Lee, 61 USPQ 2d 1430 (Fed. Cir. 2002) wherein the court in reversing an obviousness rejection indicated that deficiencies of the cited references cannot be remedied with conclusions about what is "basic knowledge" or "common knowledge".

The court pointed out:

The Examiner's conclusory statements that "the demonstration mode is just a programmable feature which can be used in many different device[s] for providing automatic introduction by adding the proper programming software" and that "another motivation would be that the automatic demonstration mode is user friendly and it functions as a tutorial" do not adequately address the issue of motivation to combine. This factual question of motivation is immaterial to patentability, and could not be resolved on subjected belief and unknown

authority. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher."... Thus, the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion. (emphasis added)

With regard to the rejection of the claims based upon Oyama et al, applicants submit that the Examiner, in withdrawing the allowance of such claims over the previously cited art of Oyama et al, the Examiner has misinterpreted applicants arguments and the evidence submitted. More particularly, the Examiner contends in the first paragraph at page 6 of the Office Action, that "Oyama does disclose each and every limitation of independent claims 1 and 11", based upon the Examiner's examination of the graph provided by applicant indicated as Fig. 1 of the attachment to the Amendment filed December 28, 2001, a copy of which is reproduced below. It is noted that such amendment describe the manner of obtaining the differential values based upon the disclosure of Oyama et al.

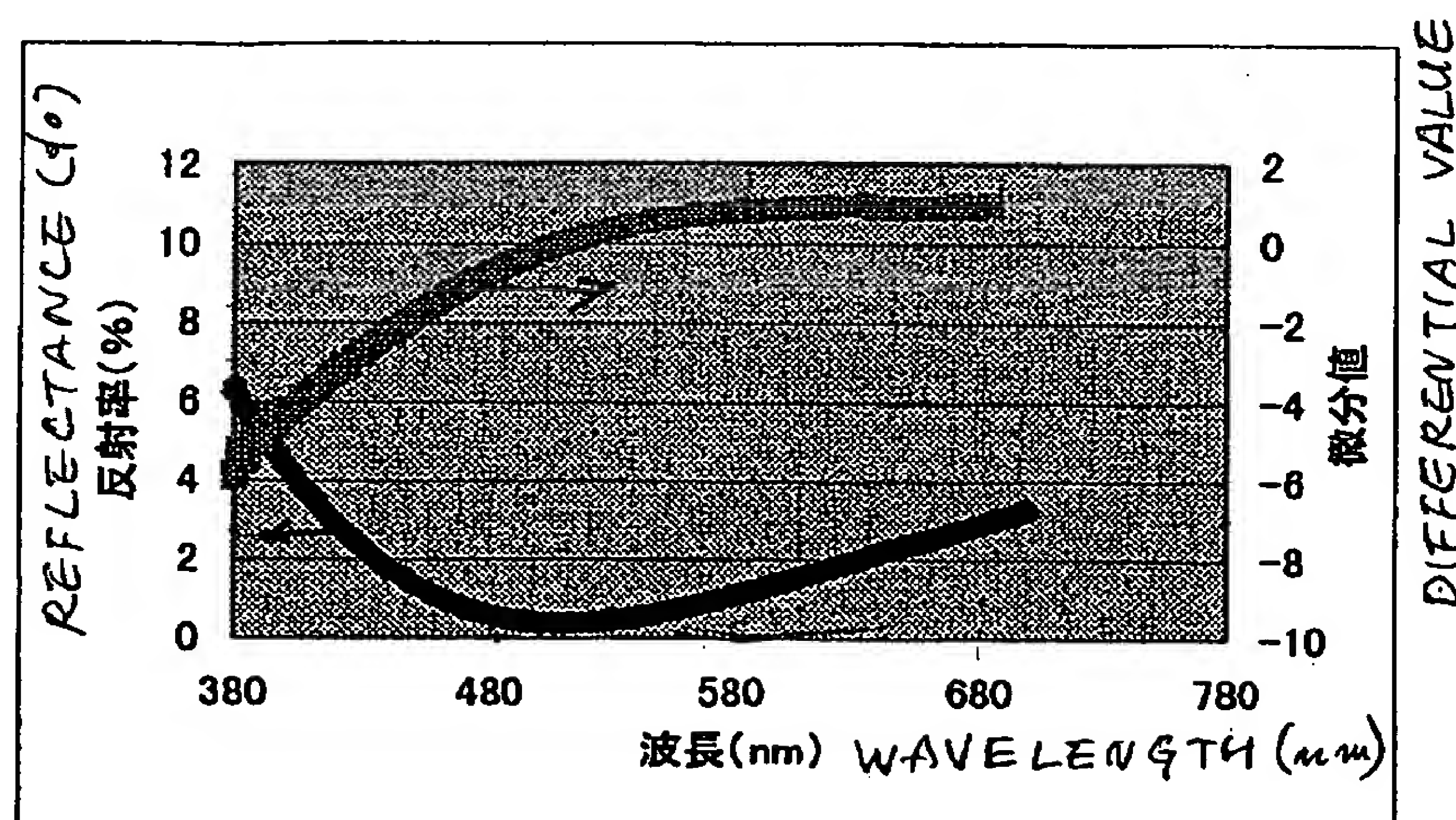


図1 Oyamaの結果類似のデータの場合

FIG. 1 THE CASE OF DATA SIMILAR WITH THE RESULT OF OYAMA

As pointed out in the previously filed Amendment, the upper curve of Fig. 1, above, represents the differential values which values are provided at the right side of such figure. Irrespective of the Examiner's contention that:

As illustrated in the graph provided by the applicant, the differential values of the reflectance of Oyama's film do fall within the claimed range of -2 to +2 (absolute value equal to 2) within the range of 380 nm to 780 nm, as seen in the portion of the graph between roughly 480 nm to 680 nm,

applicants submit that the differential value for Oyama et al at the wavelength of 380 nm is approximately "-6" and the differential value at the wavelength of approximately 680 nm is approximately "+1". Thus, looking only at the minus scale, with the absolute value of "2" representing a range of -2 to 0 or 0 to +2, it is readily apparent from the graph of Fig. 1 that the differential value of Oyama et al in the range of 380 nm to about 500 nm varies between -6 to 0 or an absolute value of "6". Thus, applicants submit that the Examiner has misinterpreted applicants arguments and Fig. 1 as presented with the Amendment of December 28, 2001. To avoid any question as to the meaning of the language of claims 1 and 11, claims 1 and 11 have been amended to recite "a flattened reflectance curve, of which all absolute values of differential values in a visible light region of 380 nm - 780 nm are equal to or less than 2". Applicants submit that contrary to the position set forth by the Examiner, the recited feature of claims 1 and 11 are not disclosed in the sense of 35 U.S.C. 102 or rendered obvious in the sense of 35 U.S.C. 103 from the disclosure of Oyama et al, such that claims 1, 11, 13 and 18 as well as the dependent claims thereof patentably distinguish over Oyama et al and should be considered allowable at this time.

With respect to the combination of Oyama et al and Itou et al, applicants note that with respect to dependent claim 2, such claim has been amended to recite the feature that the film has said selective absorption with absorption peaks at approximately 450 nm, 570 nm, and 650 nm. Referring to Fig. 2 of the drawings of

this application, such absorption peaks are represented by the dips in curve 14 and it is readily apparent that Oyama et al fails to disclose or teach the recited absorption peaks irrespective of any other disclosure in Oyama et al. Furthermore, looking to Itou et al in Figs. 3A-3C, it is readily apparent that the filters while having an absorption peak at approximately 570 nm fail to disclose or teach absorption peaks at approximately 450 nm and 650 nm, as recited in claim 2 and as also recited in other claims of this application. Thus, applicants submit that claim 2 and other claims reciting such features patentably distinguish over this proposed combination of references irrespective of the Examiner's contention that Itou et al apparently teaches "selectively absorbing wavelengths of light, including 450 nm, 570 nm and 650 nm, as shown in Fig. 3" (as amended).

With respect to independent claim 4, for example, this claim recites the feature of a laminated film composed of at least three layers, as shown in Fig. 4 of the drawings of this application, comprising a protective film 30, a conductive film 29 and an absorption film 28 at a surface of a display plane 5. Such claim further recites the feature that the laminated film is constituted so that the absorption film contains coloring matter and is arranged at a position closer to the display plane than the conductive film. Irrespective of the contentions by the Examiner, applicants submit that Fig. 2 of Oyama et al discloses that the film 21 formed on the substrate 20 on the display plane is a conductive film of "titanium nitride" as described in Examples 10-13 in cols. 16 and 17 of Oyama et al. In accordance with the claimed invention, an absorption film is necessarily different from the conductive film and the protective film, and applicants submit that irrespective of the Examiner's contentions, Oyama et al does not disclose or teach a three layer film arranged in the manner defined in the claims of this application. As to any variations suggested by the Examiner, applicants submit that such represents a hindsight reconstruction attempt utilizing the principle of "obvious to try" which is not the standard of 35 U.S.C. 103

(see In re Fine, supra), and of the utilization of teachings of the inventor against the inventor which is not permissible. (See In re Lee, supra).

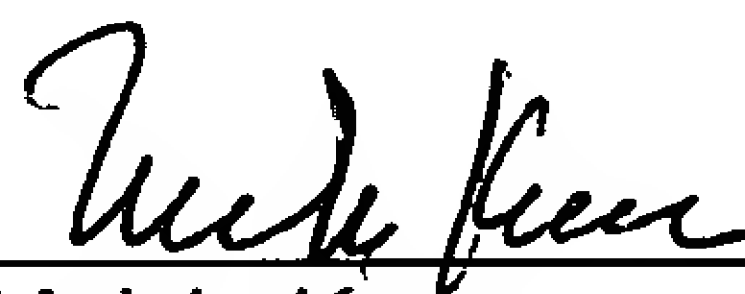
Furthermore, applicants note that in accordance with the claims of this application, such as independent claims 4 and 8-10, the absorption film contains coloring matter. The Examiner recognizes that Oyama et al fails to disclose or teach the absorption film containing coloring matter, but the Examiner refers to Itou et al as disclosing color filters arranged along the inside panel and a common filter arranged on the outside of the face panel of the color cathode ray tube. The Examiner contends that "it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the display device of Oyama to have color filters in conjunction with a common filter by disposing coloring material within the absorption layer of the film in order to produce higher quality resolution, as taught by Itou". (emphasis added) Applicants note that Itou et al specifically discloses color filters, which are separate from other members, and fails to disclose or teach a laminated film arranged in the manner defined. Applicants submit that the Examiner has engaged in a hindsight reconstruction attempt utilizing the principle of "obvious to try" which is not the standard of 35 U.S.C. 103. Furthermore, reference is made to the description in the specification of this application at page 2, line 12 to page 4, line 15, in describing the problems of adding coloring material, as now suggested to be obvious by the Examiner. Applicants submit that if coloring material is added to the conductive film in the structure disclosed in Oyama et al, the value of resistance of the conductive film is increased because mixing of the foreign materials represented by the coloring materials and an electromagnetic shielding effect is lost. On the other hand, if coloring material is added to the high refractive film or the protective film represented by the films 22 and 23 of Oyama et al, while selective absorption effect is increased, the anti-reflection characteristics is lost because of wavelength dispersion of refractivity of the coloring material as pointed out in the specification of

this application. Thus, applicants submit that it cannot be considered obvious in the sense of 35 U.S.C. 103 to add coloring material to the absorption film, noting that neither Oyama et al nor Itou et al disclose or teach such feature and the separate filters of Itou et al do not represent the addition of coloring material to the absorption film of the laminated film as disclosed and claimed herein. Thus, applicants submit that all claims patentably distinguish over this proposed combination of references in the sense of 35 U.S.C. 103 and should be considered allowable thereover.

In view of the above amendments and remarks, applicants submit that all claims present in this application should now be in condition for allowance, and issuance of an action of a favorable nature is courteously solicited.

To the extent necessary, applicant's petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (503.37677X00) and please credit any excess fees to such deposit account.

Respectfully submitted,



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